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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,397	09/16/2004	Denis Burke Drennan	A4-1800	5396
27127	7590	03/04/2005	EXAMINER	
HARTMAN & HARTMAN, P.C. 552 EAST 700 NORTH VALPARAISO, IN 46383			PATTERSON, MARIE D	
			ART UNIT	PAPER NUMBER
			3728	
DATE MAILED: 03/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/711,397	<b>Applicant(s)</b> DRENNAN, DENIS BURKE	
	<b>Examiner</b> Marie Patterson	<b>Art Unit</b> 3728	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/16/04</u> . | 6) <input type="checkbox"/> Other: ____  |

***Claim Rejections - 35 USC § 112***

1. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 20 is vague and indefinite because it is not clear what structural limitations applicant intends to encompass with such language.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaylord (5452527) in view of Richbourg (4899468).

Gaylord shows a cast shoe comprising an air-insufflated outer sole (30), an inner sole (31 and 70), a strap (53), an upper (42), and a tread pattern (32) substantially as claimed except for the exact thickness of the outer sole. Richbourg teaches forming a cast shoe with a uniformly thick heel portion (a and b) and a tapered toe portion (c). It would have been obvious to form the outer sole as taught by Richbourg in the shoe of Gaylord to facilitate walking and to make walking more comfortable.

In reference to claim 2, official notice is taken that it is well known and conventional to provide elastic portions or to make straps from elastic materials to allow the straps to more securely fasten around a wearer's foot. It would have been obvious to provide

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elastic portions in the straps in the shoe of Gaylord as modified above to allow the straps to fasten the foot more securely.

4. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1-3 and 11 above, and further in view of Sessa (5918385).

Gaylord as modified above shows a cast shoe substantially as claimed except for the exact tread pattern. Sessa teaches a tread pattern which has tapered "D-shaped" raised elements (24). It would have been obvious to use the tread pattern as taught by Sessa in the shoe of Gaylord as modified above to increase traction and cushioning.

5. Claims 7-9 rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1-3 and 11 above, and further in view of Lu (6282818).

Gaylord as modified above shows a cast shoe substantially as claimed except for air pockets. Lu teaches providing air pockets (10) in an outer sole. It would have been obvious to provide air pockets as taught by Lu in the shoe of Gaylord as modified above to decrease weight, increase comfort, and cushioning.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 7-9 above, and further in view of Stubblefield (4449307).

Gaylord as modified above shows a cast shoe substantially as claimed except for the exact arrangement of the air pockets. Stubblefield teaches forming the air pockets in the toe portion with a greater volume than the heel portion. It would have been obvious to form the pockets with volume variation as taught by Stubblefield in the shoe of Gaylord

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as modified above to adjust the cushioning and support needed by various portions of the sole.

7. Claims 12-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 4-6 above, and further in view of Lu (6282818).

Gaylord as modified above shows a cast shoe substantially as claimed except for air pockets. Lu teaches providing air pockets (10) in an outer sole. It would have been obvious to provide air pockets as taught by Lu in the shoe of Gaylord as modified above to decrease weight, increase comfort, and cushioning.

8. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 12-18 and 20 above, and further in view of Stubblefield (4449307).

Gaylord as modified above shows a cast shoe substantially as claimed except for the exact arrangement of the air pockets. Stubblefield teaches forming the air pockets in the toe portion with a greater volume than the heel portion. It would have been obvious to form the pockets with volume variation as taught by Stubblefield in the shoe of Gaylord as modified above to adjust the cushioning and support needed by various portions of the sole.

1. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Other useful information can be obtained at the PTO Home Page at [www.uspto.gov](http://www.uspto.gov).

In order to avoid potential delays, Technology Center 3700 is encouraging FAXing of responses to Office Actions directly into the Center at (703) 872-9306

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**(FORMAL FAXES ONLY).** Please identify Examiner Marie Patterson of Art Unit 3728 at the top of your cover sheet.

Any inquiry concerning the MERITS of this examination from the examiner should be directed to Marie Patterson whose telephone number is (571) 272-4559. The examiner can normally be reached from 6AM - 4PM Mon-Wed.

A handwritten signature in black ink, appearing to read 'Marie Patterson', with a long horizontal flourish extending to the right.

Marie Patterson  
Primary Examiner  
Art Unit 3728